

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Criminal No. 3:09-cr-155-01
)	
v.)	<u>NOTICE REGARDING PRIOR</u>
)	<u>CONVICTIONS FOR ENHANCED</u>
FERRIS LAVELLE LEE, a/k/a VITO,)	<u>SENTENCE PURSUANT TO</u>
)	<u>21 U.S.C. § 851(a)(1)</u>
Defendant.)	

The United States of America, by Lynn C. Jordheim, Acting United States Attorney for the District of North Dakota, and Christopher C. Myers, Assistant United States Attorney, pursuant to Title 21, United States Code, Section 851(a), hereby provides notice of a previous conviction that the United States will rely upon at sentencing to enhance the minimum mandatory sentences applicable under Title 21, United States Code, Section 841(b)(1), if the defendant is convicted or pleads guilty.

Attached and incorporated into this Notice are certified copies of the documents relating to the prior conviction of Ferris Lavelle Lee, a/k/a Vito for a felony drug offense as defined in Title 21, United States Code, Section 802(44).

The prior convictions are:

Possession of THC with Intent to Deliver

Court File No. 2003CF000559 in Kenosha County Circuit Court, State of Wisconsin, a felony under Wisconsin law; said Judgment of Conviction entered on July 8, 2004. (Exhibit 1)

Racketeering

Court File No. K5-04-1798 in Clay County District Court, State of Minnesota, a felony under Minnesota law; said Criminal Judgment entered on March 7, 2005.

(Exhibit 2)

In Counts Two through Twelve of the Indictment the defendant is alleged to have knowingly and intentionally distributed various amounts of cocaine or cocaine base, Schedule II controlled substances, in violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2.

Pursuant to Section 841(b)(C), if convicted of any of Counts Two through Twelve in the Indictment, the defendant faces a penalty of up to 30 years imprisonment, and a fine of \$2,000,000.

In Count One of the Indictment the defendant is alleged to have knowingly and intentionally combined, conspired, confederated, and agreed together with others, both known and unknown to the grand jury, to possess with intent to distribute and distribute in excess of 50 grams of cocaine base, a Schedule II controlled substance; in excess of 500 grams of a mixture and substance containing a detectable amount of cocaine, a Schedule II controlled substance; and marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 841(a)(1), and Title 18, United States Code, Section 2.

Pursuant to Section 841(b)(1)(A), if convicted of the conspiracy to distribute in excess of 50 grams of cocaine base as charged in Count One in the Indictment, the defendant faces a minimum mandatory 10-year sentence. The statute further reads:

If any person commits a violation of this subparagraph . . . after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. [. . . not to exceed the greater of twice that authorized in accordance with the provisions of Title 18, or \$8,000,000 if the defendant is an individual . . .]

Pursuant to Section 841(b)(1)(B), if convicted of the conspiracy to distribute in excess of 500 grams of a mixture and substance containing a detectable amount of cocaine as charged in Count One in the Indictment, the defendant faces a minimum mandatory 5-year sentence. The statute further reads:

If any person commits a violation of this subparagraph . . . after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a term of imprisonment which may not be less than 10 years [. . . a fine in accordance with the provisions of Title 18, or \$2,000,000 if the defendant is an individual . . .]

Therefore, the United States respectfully submits that upon conviction of conspiracy to distribute in excess of 50 grams of cocaine base as charged in Count One in the Indictment, defendant Ferris Lavelle Lee, a/k/a Vito, is subject to the mandatory penalty of life imprisonment, and a fine of \$8,000,000 pursuant to 21 U.S.C.

§ 841(b)(1)(A)(viii); upon conviction of conspiracy to distribute in excess of 500 grams

of a mixture and substance containing a detectable amount of cocaine as charged in Count One in the Indictment, defendant Ferris Lavelle Lee, a/k/a Vito, is subject to the mandatory penalty of 10 years imprisonment, and a fine of \$2,000,000 pursuant to 21 U.S.C. § 841(b)(1)(ii)(II); and upon conviction of any of Counts Two through Twelve in the Indictment, defendant Ferris Lavelle Lee, a/k/a Vito, is subject to a penalty of up to 30 years imprisonment, and a fine of \$2,000,000 pursuant to 21 U.S.C. § 841(b)(C) .

Dated February 9, 2010.

LYNN C. JORDHEIM
Acting United States Attorney

By: /s/ _____
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